

Honorable Benjamin H. Settle

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

AMERICAN DELTA PARTY; and
ROQUE "ROCKY" DE LA FUENTE,

Plaintiffs,

v.

KIM WYMAN, in her official capacity as
the Secretary of State of the State of
Washington,

Defendant.

NO. 3:20-cv-05045-BHS

DECLARATION OF LORI
AUGINO IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT

I, Lori Augino, declare as follows:

1. I am over eighteen years of age and competent to testify. The information stated below is true and correct and based on my own knowledge.

2. I currently serve as the Director of Elections in the Office of the Secretary of State of Washington. My job entails ensuring Washington's elections are conducted in a transparent, accurate, consistent, and secure manner. This includes, among other duties, assisting county auditors with conducting elections, working on election-related policy for the Secretary of State, processing candidate filings, certifying certain candidates for the ballot, and certifying elections. I have held this position for 7 years.

3. The Office of the Secretary of State accepts certificates of nomination of minor party or independent candidates for president and vice president unless the certificate fails to

1 comply with a statute. The Office of the Secretary of State does not inquire into—and will not
2 reject a certificate of nomination based on—whether a convention allows attendees to choose
3 among nominees, to choose among electors, or to establish policy positions.

4 4. In 2008, one independent and five minor party presidential candidates met all of
5 Washington's statutory requirements and appeared on the general election ballot.

6 5. In 2012, six minor party presidential candidates met all of Washington's statutory
7 requirements and appeared on the general election ballot.

8 6. In 2016, five minor party presidential candidates met all of Washington's
9 statutory requirements and appeared on the general election ballot.

10 7. In the 2016 General Election, there were 3,209,214 votes cast for president and
11 vice president of the United States. Nominees of the Democratic Party and the Republican Party
12 each received at least five percent of the votes cast for president.

13 8. In 2016, the Washington Office of the Secretary of State rejected a certificate of
14 nomination petition submitted on behalf the American Delta Party, which sought to nominate
15 Mr. De La Fuente as a candidate for President of the United States. Attached as **Exhibit 1** is a
16 true and correct copy of the letter rejecting the American Delta Party's nominating petition. The
17 certificate of nomination failed to provide proof of publication of the notice calling the
18 convention.

19 9. In 2016, Mr. De La Fuente timely submitted a declaration of write-in candidacy
20 for the November General Election.

21 10. In June 2020, in light of COVID-19 related prohibitions of large gatherings, the
22 Office of the Secretary of State adopted an emergency regulation. That emergency regulation
23 permits minor party and independent candidates for president to hold nominating conventions
24 virtually. Each virtual convention must be attended by at least 100 individuals who are registered
25 to vote in Washington State, and the certificate of nomination must still include 1,000 physical
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1 signatures of individuals who attended the nominating convention. Attached as **Exhibit 2** is a
2 true and correct copy of the emergency regulation.

3 11. On June 10, 2020, despite COVID-19 related restrictions, supporters of
4 Referendum 90 submitted over 260,000 physical signatures to the Office of the Secretary of
5 State. These signatures were gathered between April 2020 and June 2020. Attached as **Exhibit 3**
6 is a true and correct copy of the Certification of Referendum 90.

7 12. On March 10, 2020, the date of Washington presidential primary, there were
8 4,553,013 registered voters in Washington State.

9 13. The statutory deadline for mailing general election ballots to overseas and
10 military voters is 45 days before election day. In 2020, that will be September 19. County
11 auditors must mail ballots to each voter at least 18 days before each election. In 2020, this means
12 that ballots must be mailed to all other voters by October 16.

13 14. The Secretary of State's Office is responsible for printing and distributing more
14 than 3,300,000 Voters' Pamphlets, one for every household in the state. There are currently 32
15 regional editions of the state Voters' Pamphlet because content depends on voting districts.
16 Several counties include the state Voters' Pamphlet when they mail ballot packets to their
17 military and overseas voters at least 45 days before election day.

18 15. Nature of General Election Ballots. For general election ballots to be timely
19 formatted, proofed, printed, tested with the vote tallying equipment, and distributed to voters,
20 county auditors need to have the final content no later than August 31, 2020. This deadline is
21 driven by the process described below in paragraphs 16 – 17.

22 16. Counties are responsible for creating, proofing, printing, and testing all ballots.
23 Counties must test each ballot type in its vote tallying equipment to ensure the ballots are
24 formatted properly and can be tabulated accurately by the machines. Counties typically begin
25 formatting ballots shortly after candidates are certified. Substantial time is required for ballot
26 formatting after its content is certain, because every county must prepare multiple ballot styles

1 based on every combination of issues and offices that will appear in various parts of the county.
 2 This can amount to hundreds, sometimes thousands, of different ballot styles within a single
 3 county. Each of the resulting ballot styles must be carefully reviewed and proofread for accuracy.

4 17. Printing of General Election Ballots. Many counties use private vendors to print,
 5 assemble, and mail ballot packets to voters. Many of these vendors provide this service for
 6 numerous jurisdictions, often in multiple states. All of these jurisdictions are in competition to
 7 get their ballots printed promptly. After printers receive the ballot orders, they prepare proofs of
 8 each ballot style, and provide them to the county auditors for final review and correction of any
 9 errors, and for testing of the proofs in the tabulation equipment. After counties approve these
 10 proofs (with or without changes), the ballots are printed.

11 18. For minor party and independent candidates, nominating conventions often
 12 provide the first opportunity for voters to come together to learn about a party or a candidate and
 13 their platform. Requiring a nominating convention also ensures that candidates have significant
 14 support from voters in Washington state and prevents ballot overcrowding.

15 19. The Washington Secretary of State publishes a Presidential Guide for Minor
 16 Party and Independent Candidates. This guide is available on the Secretary of State's public
 17 website. A true and correct copy of the Guide is attached as **Exhibit 4**.

18 20. In 2016, the Libertarian Party submitted proof of the publication of its convention
 19 notices reflecting that the cost of its notices ranged from \$36.58 to \$109.12. True and correct
 20 copies of the notices submitted by the Libertarian Party are attached as **Exhibit 5**.

21 21. In 2016, the Green Party reported to the Federal Election Commission (FEC)
 22 convention-notice expenditures of \$45.35, \$45.35, \$79.45, and \$79.45, for a total of \$249.60.
 23 This is reflected on the FEC's website, which is available here: [https://www.fec.gov/
 24 data/disbursements/?committee_id=C00361493&two_year_transaction_period=2016&data_ty
 25 pe=processed](https://www.fec.gov/data/disbursements/?committee_id=C00361493&two_year_transaction_period=2016&data_type=processed).

1 22. On July 6, 2020, the Washington Secretary of State received an e-mail from a
2 representative of The Alliance Party. The attachment included a Certificate of Nomination
3 seeking to nominate Roque De La Fuente as its candidate for President of the United States. The
4 attachment also included a Consent to Nomination signed by Mr. De La Fuente. A true and
5 correct copy of the email and attachment is attached as **Exhibit 6**, except that the seven pages of
6 nominating petitions have been withheld, consistent with the confidentiality provision in Wash.
7 Rev. Code § 29A.56.670.

8 I swear under penalty of perjury under the laws of the state of Washington and the United
9 States that the foregoing is true and correct and of my own knowledge, and that I executed this
10 declaration at Olympia, Washington, on July 8, 2020.

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13 LORI AUGINO, DIRECTOR OF ELECTIONS
14 OFFICE OF SECRETARY OF STATE
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CERTIFICATE OF SERVICE

I hereby certify, under penalty of perjury, that I electronically filed a true and correct copy of the foregoing document with the Clerk of the Court of the Western District of Washington by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

DATED this 8th day of July, at Olympia, Washington.

s/Leena Vanderwood
LEENA VANDERWOOD
Legal Assistant